

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

**KOLBY DUCKETT, DAVID SCHILLING,
and DAVID HOLLOWAY,**

Plaintiffs,

v.

No. 1:19-cv-00295

**CHIEF BRIAN HICKMAN, TED ROGERS,
and THE CITY OF COLLEGEDALE,
TENNESSEE,**

Defendants.

JOINT MOTION TO ALTER OR AMEND SCHEDULING ORDER PURSUANT TO
FED. R. CIV. P. 16(b)(4)

The parties, Kolby Duckett, David Schilling, David Holloway, Brian Hickman, Ted Rogers and the City of Collegedale, Tennessee appear, through respective counsel, and move this Court to amend all unexpired deadlines contained in the First Amended Scheduling Order (Doc. 85) entered in this case, and to continue the trial of this matter. In support of their Motion, the parties would show as follows:

1. This action was filed on October 24, 2019. Given the number of parties, witnesses and documents involved, this has been an unusually complex and involved matter that has necessitated concerted effort on the part of all involved counsel.

2. The parties completed written discovery, but the COVID-19 pandemic delayed the beginning of depositions. COVID-19 also resulted in the delay or rescheduling of several depositions over the last 18 months, prolonging the time needed to complete discovery. Nonetheless, the parties and their counsel have worked diligently to complete discovery as quickly and efficiently as possible.

3. The parties have completed extensive written discovery and taken the depositions of 18 parties and fact witnesses, with some of those depositions stretching into a second day. Fact

discovery is essentially completed, but limited additional fact witnesses depositions will be necessary.

4. The parties still must schedule and complete discovery related to expert witnesses disclosed by the Plaintiffs and expert witnesses, if any, to be disclosed by the Defendants.

5. The parties and their counsel have worked cooperatively throughout this matter to resolve issues and complete discovery as expeditiously as possible, but the parties and their counsel believe, after good faith discussions and efforts, that additional time will be necessary to complete outstanding discovery.

6. As further good cause, on August 24, 2021, the parties submitted this matter to mediation with mediator John Harrison. The parties worked well into the evening of August 24, 2021, but were unable to reach an agreement. Nonetheless, the parties are continuing to negotiate. While it is unclear at this juncture whether the parties will be able to reach a final agreement, they intend to continue to negotiate in good faith.

7. Under the Court's First Amended Scheduling Order, discovery is to be completed by September 24, 2021. (Doc. 85, ¶ 5, Page ID # 412). Dispositive and *Daubert* motions are due October 8, 2021. (Doc. 85, ¶ 6 Page ID # 412). The trial is scheduled to begin on January 25, 2022, and is set for 7 days. (Doc. 85, ¶ 12, Page ID # 413).

8. In order to allow the parties to explore resolution without incurring unnecessary additional costs of litigation and attorney fees, the parties jointly ask that the trial date scheduled for January 25, 2022 be reset approximately 90 days, according to availability in the Court's schedule, with all unexpired deadlines likewise extended, to allow the parties to fully explore the potential for resolution and, if necessary, complete discovery.

9. Considering the obstacles outlined above, the parties respectfully request that all unexpired deadlines be amended and set back in order for the parties to complete depositions, disclose and depose experts¹, obtain transcripts, and draft and file dispositive and *Daubert* motions.

10. Specifically, the parties respectfully request all unexpired deadlines in this Court's First Amended Scheduling Order and the trial date each be set back at least 90 days, as availability on this Court's calendar permits.

RESPECTFULLY SUBMITTED this 26th day of August, 2021.

CHIEF BRIAN HICKMAN

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¹ The Plaintiffs have timely disclosed their expert witnesses in accordance with the First Amended Scheduling Order.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. mail. Parties may access this filing through the Court's electronic filing system.

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Dated this 26th day of August, 2021.

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